

Amendment No. 1 to HB0650

Vaughan
Signature of Sponsor

AMEND Senate Bill No. 649

House Bill No. 650*

by deleting all language after the enacting clause and substituting:

SECTION 1. This act is known and may be cited as the "Booting Consumer Protection Act."

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following as a new part:

47-18-3201.

As used in this part:

(1) "Authorized vehicle immobilization device operator" or "operator" means a person authorized by a political subdivision of this state to be engaged in the business of installing vehicle immobilization devices within the jurisdictional area of the political subdivision;

(2) "Engaged in the business of installing vehicle immobilization devices" means installing or removing vehicle immobilization devices on motor vehicles in exchange for monetary payment or other valuable consideration, whether such payment or consideration is received for the installation or the removal of the vehicle immobilization device;

(3) "Person" means an individual, sole proprietor, independent contractor, partnership, corporation, or similar business entity;

(4) "Political subdivision" means a municipality, public corporation, body politic, authority, district, metropolitan government, county, or an agency, department, or board of such entities; and

(5) "Vehicle immobilization device" means a mechanical device that is designed or adapted to be attached to a wheel, tire, or other part of a parked motor vehicle to prohibit the motor vehicle's usual manner of movement or operation.

47-18-3202.

(a) A person engaged in the business of installing vehicle immobilization devices on motor vehicles in this state shall:

(1) Accept credit cards and debit cards as methods of payment for the removal of a vehicle immobilization device from a motor vehicle; and

(2) If the person who is requesting removal of the vehicle immobilization device elects to make the payment by credit card or debit card and the payment cannot be completed by the card without undue delay at the site where the motor vehicle to which the vehicle immobilization device is attached is located, and an optional online payment method as described in subdivision (c)(3) is either unavailable or has been refused by the individual, remove the vehicle immobilization device and issue a billing invoice for payment due:

(A) To the individual who is requesting the removal of the vehicle immobilization device, if such individual provides a valid form of identification; or

(B) By mail to the registered owner of the vehicle.

(b)

(1) A person engaged in the business of installing vehicle immobilization devices on motor vehicles shall utilize for the work of installing and removing such devices only those persons who are required to file a W-2 wage and tax statement with the federal internal revenue service for the compensation those persons receive for the work performed.

(2) A person engaged in the business of installing vehicle immobilization devices on motor vehicles shall not:

(A) Contract for or engage the services of an independent contractor to install or remove vehicle immobilization devices; or

(B) Compensate employees on a commission basis.

(c)

(1) Subsection (a) does not prohibit a person engaged in the business of installing vehicle immobilization devices on motor vehicles from accepting cash or other methods of payment if the person making such payment, in that person's sole discretion, elects to use such alternative payment method.

(2) A person engaged in the business of installing vehicle immobilization devices on motor vehicles shall not charge a fee to accept payment by credit card or debit card.

(3) A person engaged in the business of installing vehicle immobilization devices on motor vehicles may offer an alternative, online payment service as an optional payment method. If the person making payment for the removal of the vehicle immobilization device elects, in the person's sole discretion, to use the optional online payment method, then the provider of the online payment service may charge a three percent (3%) convenience fee. This subdivision (c)(3) supersedes all local ordinances, rules, or other enactments to the contrary.

(4)

(A) If a vehicle immobilization device is placed on a vehicle that is parked on private property due to the vehicle owner's failure to pay the required parking charge, then the owner or operator of the private property may require the owner of the vehicle to pay the applicable immobilization device removal fee and all unpaid parking fines and fees to have the immobilization device removed.

(B) This subdivision (c)(4) supersedes all local ordinances, rules, or other enactments to the contrary.

(d)

(1)

(A) An owner, lessee, or other person who has control of a property for which an enforceable agreement exists with a person engaged in the business of installing vehicle immobilization devices to provide parking enforcement services by installing vehicle immobilization devices on motor vehicles on such property shall post signage in a conspicuous location on the property bearing notice:

(i) That the parking policy for the property is strictly enforced;

(ii) That a violator's vehicle will be immobilized with a vehicle immobilization device with the owner of the vehicle having to pay to have the device removed;

(iii) Of the name and phone number of the authorized vehicle immobilization device operator; and

(iv) That consumers are protected from violations of this part and that violations may be reported to the attorney general and reporter.

(B) The sign required by this subdivision (d)(1) must:

(i) Be no less than twenty-four inches (24") in height and eighteen inches (18") in width and contain lettering that is no less than two inches (2") in height; and

(ii)

(a) Be located at each designated entrance to the property where parking prohibitions are in place; or

(b) If there is no designated entrance, be erected
in a place that is clearly visible from each parking space.

(C) Notwithstanding subdivisions (d)(1)(A) and (B)(i), if on the effective date of this act a property has existing signage posted that contains the notice required by subdivisions (d)(1)(A)(i)-(iii), then the signage complies with subdivision (d)(1)(A) and is exempt from the requirements of subdivision (d)(1)(B)(i) if the notice required by subdivision (d)(1)(A)(iv) is permanently affixed adjacent to the existing signage. However, new or replacement signage installed on or after the effective date of this act must comply with subdivisions (d)(1)(A) and (B)(i).

(2) A person engaged in the business of installing vehicle immobilization devices shall not install a vehicle immobilization device on a motor vehicle if the motor vehicle is located on property that does not comply with the signage requirements under subdivision (d)(1).

47-18-3203.

(a) A violation of this part constitutes a violation of the Tennessee Consumer Protection Act of 1977.

(b) A violation of this part constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to any penalties and remedies established under this part.

(c) If the attorney general and reporter reasonably believes that any person has violated this part, then the attorney general and reporter may institute a proceeding under this chapter.

47-18-3204.

(a) If an authorized vehicle immobilization device operator is found to have violated § 47-18-3202 as part of a final judgment and the operator has no opportunity to appeal the judgment, then the attorney general and reporter shall send notice of the violation to each political subdivision that has authorized the operator to operate within its jurisdictional area.

(b) Upon the receipt of notice from the attorney general and reporter that an operator has committed a third violation of § 47-18-3202, a political subdivision shall permanently revoke the operator's authorization to engage in the business of installing vehicle immobilization devices within the jurisdictional area of the political subdivision.

SECTION 3. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as a new subdivision:

() Violating § 47-18-3202.

SECTION 4. This act takes effect July 1, 2023, the public welfare requiring it, and applies to prohibited conduct occurring on or after that date.